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Third Party Communication: None

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From: [REDACTED]

Sent: Tuesday, May 21, 2013 3:11:21 PM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: RE:

The character of partnership income or loss as derived from a trade or business, rental activity, or portfolio income is a partnership item. See *Estate of Quick v. Commissioner*, 110 T.C. 172 ; Treas. Reg. 301.6231(a)(3)-1(b). Consequently, a change to the originally reported character on the partnership return has to be made as a timely request for administrative adjustment (AAR) under section 6227. Such a claim must be filed on Form 8082 within three years of the filing of the partnership return unless the period for assessing partnership items has been extended to a later date.

The application of the passive loss rules to a partner under section 469 is an affected item with a partnership item component (character of partnership income) and a partner-level component (material participation). *Estate of Quick*; Treas. Reg. 301.6231(a)(5)-1(d). The partnership level component is subject to the TEFRA procedures and the partner-level component is subject to normal non-TEFRA refund procedures. See *Duffie v. U.S.*, 600 F.3d 362 (5th Cir. 2010).

If a partner files a refund claim for the partner-level component, he will be bound by the partnership-level reporting of the item. Cf. *Roberts v. Commissioner*, 94 T.C. 853, 860-62 (1990).

[REDACTED]